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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,052	12/26/2001	Timo Vataja	460-010812-US(PAR	6806

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FAIRFIELD, CT 06824

EXAMINER

FOSTER, ROLAND G

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/033,052

Applicant(s)

VATAJA, TIMO

Examiner

Roland G. Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3 and 5-24 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

The applicant's conclusions are premised on the argument that Nagendran (U.S. Patent No. 6,731,940) only teaches that "customized information is...transmitted to the mobile device from which the request is originated" (e.g., see page 11, last paragraph of the amendment, filed on March 09, 2005). From this characterization of Nagendran, the applicant then concludes that the range definition step disclosed by Nagendran is not based on the current position of the sender's wireless communication device.

Although the applicant's arguments have been duly considered, they are not deemed persuasive because they are based on an incomplete reading of Nagendran. Specifically, although Nagendran teaches in the abstract that the customized information is transmitted only to the mobile device from which the request originated (abstract), Nagendran goes on to teach in the more detailed summary section that the customized information is transmitted to both the "mobile device from which the request is originated or which was preselected by the user..." (col. 3, lines 24-27) (emphasis added). Thus, the customized information is transmitted to devices such as electronic billboards and public display units (col. 6, lines 1-23) that are separate from the sender's device. Further regarding the range definition step, Nagendran teaches that before the message is sent, the user (sender) first enters "pre-selected information" that includes range information (e.g., radial distance) and that the user's position is determined (abstract and col. 3, lines 14-24). After the position and range definitions steps are complete, the customized information is transmitted to the separate devices (e.g., billboards and public display units) based

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on a "pre-selected" manner (i.e., range) as discussed above. Thus, the range definition step is also based on the current position of the sender's wireless communication device.

Applicant's arguments regarding the claim limitation "validity period definition step for defining a validity period for the message" were unpersuasive as Nagendran clearly discloses this feature (e.g., col. 2, lines 48-58).

For the above reasons, the following rejections are repeated, except where any new grounds of rejection are due to the applicant's amendment to the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-8, and 10-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Nagendran (U.S. Patent No. 6,731,940 B1) (hereinafter "Nagendran").

With respect to claim 1, Nagendran discloses a method for transmitting a location-based message (abstract), where the message (regarding newly generated or modified information content) (col. 2, lines 18-25) is transmitted from the wireless device of the sender (col. 3, lines

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14-23) to a wireless communication device of one or more recipients via the message center (col. 6, lines 10-41).

Nagendran discloses a sender's positioning step (col. 3, lines 23-67).

Nagendran also discloses a range definition step for defining a message transmission range based on the current position of the sender's wireless communication device (col. 3, lines 14-23). Specifically, the message is transmitted to both the "mobile device from which the request is originated or which was preselected by the user..." (col. 3, lines 24-27) (emphasis added). Thus, the customized information is transmitted to devices such as electronic billboards and public display units (col. 6, lines 1-23) that are separate from the sender's device. Further regarding the range definition step, Nagendran teaches that before the message is sent, the user (sender) first enters "pre-selected information" that includes range information (e.g., radial distance) and that the user's position is determined (abstract and col. 3, lines 14-24). After the position and range definitions steps are complete, the customized information is transmitted to the separate devices (e.g., billboards and public display units) based on a "pre-selected" manner (i.e., range) as discussed above. Thus, the range definition step is also based on the current position of the sender's wireless communication device.

Nagendran also discloses a "validity period definition step for defining a validity period for the message" (col. 2, lines 48-58), a "detection step for detecting whether the recipient of the

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message is located within the message transmission range" and clearly a presentation step (col. 6, lines 1-23).

Claim 16 differs substantively from claim 1 in that claim 16 recites a system comprising components that perform functions equivalent to the method steps of claim 1. Therefore, see the claim 1 rejection for additional details. See also the system as illustrated in Figs. 1-4.

Claim 22 differs substantively from the preceding claims in that claim 22 is directed to a message service center that performs functions equivalent to those addressed in previous claims. Therefore, see the preceding claim rejections for further details. In addition, the message center (Fig. 1) relays the messages (information content generated or modified by the sender) as discussed in the claim 1 rejection above. Also, see col. 2, lines 26-30, where the information content may also reside in a remote database.

Claims 23 and 24 differ substantively from the preceding claims in that claims 23 and 24 are recited more broadly. Therefore, see the preceding claim rejections for further details.

With respect to claim 2, see the claim 1 rejection for further details.

With respect to claim 3, see col. 4, lines 21-25.

With respect to claim 5, see the claim 22 rejection for further details.

With respect to claim 6, see the claim 1 rejection for further details.

With respect to claims 7, 8, and 18, see the claim 1 rejection for additional details and col. 4, lines 60-65.

With respect to claims 10 and 19, see col. 5, lines 10-30.

With respect to claims 11 and 20, Nagendran discloses that the communication is set up from the user's wireless device to a wireless local area network such as the cellular telephone system, which comprises a wireless network that is local to the sender.

With respect to claims 12 and 21, see the claim 1 rejection for further details.

With respect to claim 13, see col. 3, lines 14-23 and col. 6, lines 1-41.

With respect to claim 14, see col. 6, lines 45-55.

With respect to claim 15, see the claim 1 rejection for further details.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagendran as applied to claims 1 and 7 above.

Although Nagendran discloses that the user has a large degree of control over the message transmission area including a radial distance setting (col. 3, lines 18-23), Nagendran fails to specifically disclose that the area is “defined to be the area of all those base stations transmitting a signal that can be received by the sender’s wireless communication device.”

However, “Official Notice” was taken in the last Office action that both the concept and advantages of defining a message transmission area to be all those base stations transmitting a signal that can be received by the sender’s wireless device (such as by setting the radial distance to a small area that encompasses only one base station) would have been well known and expected in the art. The applicant's lack of traverse to the officially noticed fact in the last Office action is taken as an admission of the facts noticed.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to control the message transmission area as disclosed by Nagendran to



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be an area of all base stations transmitting a signal that can be received by the sender's wireless communication device.

The suggestion/motivation for doing so would have been to support the small message transmission areas disclosed by Nagendran, which are likely to encompass all base stations that the sender can currently communicate with (e.g., nearby electronic billboards, col. 6, lines 1-11) (e.g., small areas of interest such a local weather, food, and lodging as a salesperson travels along a route, col. 6, lines 13-23).


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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland G. Foster whose telephone number is (571) 272-7538. The examiner can normally be reached on Mon to Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. On July 15, 2005, the Central FAX Number will change to 571-273-8300. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Roland G. Foster  
Primary Patent Examiner  
June 23, 2005